

Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington.

NOVEMBER 5 2014
WILLIAM M. McCOOL, Clerk
By [Signature] Deputy

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD THAYNE MUTSCHLER,

Defendant.

CR 14

INDICTMENT

328 TSZ

The Grand Jury charges that:

COUNTS ONE THROUGH FOUR
(Mail Fraud)

A. Background

At all times relevant to this Indictment:

1. Brookfield Condominium Homeowners Association (Association) was a registered nonprofit association based in Everett, Washington. The Association was governed by a Board of Directors, which included a president, secretary, treasurer, and two directors. The Board of Directors oversaw operation and management of a 94 unit residential development located at 12503 4th Avenue in Everett, Washington. The Association's primary source of revenue was generated from member dues, which averaged collectively approximately \$230,000.00 per year.

1 2. Defendant RICHARD THAYNE MUTSCHLER served as President of the
2 Association from February 2008 through March 2011. As part of his job duties,
3 MUTSCHLER had responsibility for the day-to-day management of the Association,
4 including collecting bills, paying vendors, and reconciling expenditures. He also was the
5 sole administrator responsible for overseeing the Association's online banking account.
6 The Association's online banking account was funded primarily by member dues
7 payments, some of which the victims' banks mailed to the Association.

8 **B. The Scheme and Artifice to Defraud**

9 3. Beginning no later than April 2008, and continuing until on or about April
10 7, 2010, within the Western District of Washington, and elsewhere, Defendant
11 RICHARD THAYNE MUTSCHLER, did knowingly devise and intend to devise a
12 scheme and artifice to defraud members of the Association, and to obtain money by
13 means of false and fraudulent pretenses, representations, promises, and concealment of
14 material facts.

15 4. The essence of the scheme to defraud was for RICHARD THAYNE
16 MUTSCHLER to redirect funds from the Association's online bank account to both his
17 personal bank account and personal credit account to pay personal expenses and debts.
18 The funds were not intended to be used for that purpose. As a result of this scheme to
19 defraud, RICHARD THAYNE MUTSCHLER obtained approximately \$296,946.61.

20 **C. Manner and Means of the Scheme and Artifice to Defraud**

21 5. It was part of the scheme and artifice to defraud that RICHARD THAYNE
22 MUTSCHLER deliberately engaged in a pattern of deceptive conduct designed to
23 convince Association members he was acting as their duly authorized agent when he
24 conducted unauthorized transfers of funds from the Association's online banking account
25 into his personal banking and credit card accounts over which he had control.

26 6. It was further part of the scheme and artifice to defraud and obtain money
27 by false pretenses that between April 2008 and February 2010, RICHARD THAYNE
28 MUTSCHLER accessed the Association's online bank account on approximately forty-

1 three (43) occasions and directed that Association funds be used to pay his own personal
2 credit card obligations. He was not authorized by the Association to access its bank
3 account and use its funds for this purpose and he did not reimburse the Association for
4 these expenditures. The unauthorized payments totaled approximately \$50,987.76.

5 7. It was further part of the scheme and artifice to defraud and obtain money
6 by false pretenses that between April 2008 and April 2010, RICHARD THAYNE
7 MUTSCHLER accessed the Association's online bank account on approximately thirty-
8 one (31) occasions and directed that Association funds be electronically transferred to
9 personal bank accounts he controlled. He was not authorized by the Association to
10 transfer its funds for this purpose and he did not reimburse the Association for these
11 unauthorized transfers. The unauthorized transfers totaled approximately \$245,958.00.

12 8. It was further part of the scheme and artifice to defraud and obtain money
13 by false pretenses that RICHARD THAYNE MUTSCHLER caused some Association
14 members to pay their membership dues using a banking service that resulted in a check
15 being mailed to the Association. Payment checks delivered by the Postal Service to the
16 Association were deposited into the Association's bank account from which RICHARD
17 THAYNE MUTSCHLER drew the unauthorized withdrawals.

18 9. It was further part of the scheme and artifice to defraud and obtain money
19 by false pretenses that RICHARD THAYNE MUTSCHLER attempted to conceal
20 evidence of the scheme by entering false data and transactional information into the
21 Association's accounting records.

22 10. It was further part of the scheme and artifice to defraud and obtain money
23 by false pretenses that RICHARD THAYNE MUTSCHLER attempted to conceal
24 evidence of the scheme by fraudulently entering fictitious payee names, such as "ACCTS
25 REC Brookfield Condo" and "ACCTS PAY Brookfield Condo," into the online banking
26 feature. As a result, the debit descriptions on the Association's monthly bank statements
27 concealed the true destination of the transfer payments. Use of the fictitious payee names
28

1 prevented the Association from learning their bank account funds were in fact transferred
2 to RICHARD THAYNE MUTSCHLER's personal accounts.

3 **D. Execution of the Scheme and Artifice to Defraud**

4 11. Beginning in April 2008 and continuing through April 2010, within the
5 Western District of Washington, and elsewhere, RICHARD THAYNE MUTSCHLER
6 with the intent to defraud, devised and willfully executed, with knowledge of its
7 fraudulent nature, the above-described scheme and artifice to defraud and obtain money
8 by materially false and fraudulent pretenses.

9 12. On or about the dates listed below, within the Western District of
10 Washington, and elsewhere, for the purpose of executing or attempting to execute the
11 above-described scheme to defraud the Association's members and for obtaining money
12 from the Association's members by means of false and fraudulent pretenses,
13 representations, promises, and concealment of material facts, and attempting to do so,
14 RICHARD THAYNE MUTSCHLER, knowingly caused to be sent and delivered by the
15 United States Postal Service and private or commercial interstate carrier, and did
16 knowingly and willfully take and receive therefrom, according to the direction thereon,
17 the following mail matter, which each mailing constituting a separate count of this
18 Indictment:

COUNT	DATE	SENDER	ADDRESSEE	ITEM MAILED
1	December 24, 2009	NORTHERN TRUST – Online Bill Payment Processing Center P.O. Box 2994 Phoenix, Arizona 85062-2994	BROOKFIELD CONDOMINIUM ASSOCIATION 12503 4th AVE W Everett, Washington 98204-5781	CHECK NUMBER 0059860588, submitted on behalf of victim J.G., in the amount of \$246.12
2	January 4, 2010	NORTHERN TRUST – Online Bill Payment Processing Center P.O. Box 2994 Phoenix, Arizona 85062-2994	BROOKFIELD CONDOMINIUM ASSOCIATION 12503 4th AVE W Everett, Washington 98204-5781	CHECK NUMBER 0062873591, submitted on behalf of victim M.R., in the amount of \$234.74
3	February 4, 2010	NORTHERN TRUST – Online Bill Payment Processing Center P.O. Box 2994 Phoenix, Arizona 85062-2994	BROOKFIELD CONDOMINIUM ASSOCIATION 12503 4th AVE W Everett, Washington 98204-5781	CHECK NUMBER 0072998425, submitted on behalf of victim J.G., in the amount of \$253.36
4	March 4, 2010	NORTHERN TRUST – Online Bill Payment Processing Center P.O. Box 2994 Phoenix, Arizona 85062-2994	BROOKFIELD CONDOMINIUM ASSOCIATION 12503 4th AVE W Everett, Washington 98204-5781	CHECK NUMBER 0082097205, submitted on behalf of victim J.G., in the amount of \$253.36

All in violation of Title 18, United States Code, Section 1341.

COUNTS FIVE THROUGH EIGHT
(Wire Fraud)

11. The factual allegations contained in paragraphs 1 through 10 are realleged and incorporated by reference as though fully set forth herein.

12. On or about the dates listed below, within the Western District of Washington, and elsewhere, for the purpose of executing or attempting to execute the above-described scheme, RICHARD THAYNE MUTSCHLER, knowingly transmitted and caused to be transmitted, by wire communication in interstate and foreign commerce, the following transmissions:

COUNT	DATE	WIRE TRANSMISSION
5	November 10, 2009	An online credit card payment in the amount of \$5,891.78 from the Association's account number xxxx7217 to Defendant's Navy Federal account number xxxxxx5554, which transmitted a wire and signal that traveled from Washington to Virginia.
6	November 16, 2009	An online credit card payment in the amount of \$2,037.60 from the Association's account number xxxx7217 to Defendant's Navy Federal account number xxxxxx5554, which transmitted a wire and signal that traveled from Washington to Virginia.
7	November 27, 2009	An online credit card payment in the amount of \$922.17 from the Association's account number xxxx7217 to Defendant's American Express account number xxxxxx6104, which transmitted a wire and signal that traveled from Washington to Arizona.
8	December 8, 2009	An online credit card payment in the amount of \$1,979.88 from the Association's account number xxxx7217 to Defendant's Navy Federal account number xxxxxx5554, which transmitted a wire and signal that traveled from Washington to Virginia.

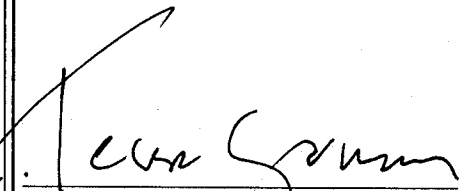
1 All in violation of Title 18, United States Code, Sections 1343.
2
3


4 A TRUE BILL:


5 DATED:

6 **Signature of Foreperson redacted pursuant**
7 **to the policy of the Judicial Conference of**
8 **the United States.**

9 _____
10 FOREPERSON
11

12 
13 ANNETTE L. HAYES
14 Acting United States Attorney
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16 
17 JAMES D. OESTERLE
18 Assistant United States Attorney
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21 ROSCOE JONES, JR.
22 Assistant United States Attorney
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